Department of Justice

JUSTICE DEPARTMENT AND 7 STATE ATTORNEYS GENERAL REQUIRE THOMSON CORP. AND WEST PUBLISHING CO. TO RESTRUCTURE $3.4 BILLION MERGER

Largest Joint Federal & State Antitrust Action

WASHINGTON, D.C. -- The Department of Justice and Attorneys General from seven states today agreed to allow the $3.4 billion merger of two of the nation's largest legal publishers--The Thomson Corp. and West Publishing Co.--as long as Thompson sells more than 50 legal publications valued at a quarter of a billion dollars, openly licenses West's page numbering system, and provides other relief to resolve anticompetitive concerns. This is the largest number of states that has ever joined with the federal government in challenging an antitrust violation.

The Department's Antitrust Division, along with Attorneys General from California, Connecticut, Illinois, Massachusetts, New York, Washington and Wisconsin, filed a joint antitrust suit and a proposed settlement in U.S. District Court in Washington.

Anne K. Bingaman, Assistant Attorney General in charge of the Department's Antitrust Division, said, "This settlement is a victory for all of us. We are all consumers of legal advice from time to time and as citizens we rely on access to information about our nation's laws."

The Department said that without these divestitures and other relief, the merged publishing company would have reduced competition in dozens of markets nationwide where Thomson and West are the only publishers. For example, Thomson and West both produce versions of an annotated United States code, and enhanced U.S. Supreme Court reporters. The combined company would also have reduced competition in the provision of online legal research services.

"Competition in the legal publishing industry helps keep costs low, improves product quality and increases innovation. This settlement will ensure that consumers continue to obtain the benefits of competition and entry in these markets for the basic tools of legal research," said Bingaman.

Thomson, headquartered in Toronto, Canada, owns several major legal publishing companies in the United States, including Lawyers Cooperative Publishing Company, Bancroft-Whitney Company, and Clark Boardman Callaghan. Thomson reported legal publishing sales of about $368 million in the United States last year.

West, based in Eagan, Minnesota, is the largest publisher of enhanced primary law materials and related research tools in the United States. West had estimated legal publishing sales of $700 million in the United States last year.

The complaint alleges that the merger without the proposed divestitures would have lessened competition substantially in nine markets for enhanced primary law--legal publications of statutes or court decisions in which commentary is offered, in more than 50 markets for secondary law products--treaties and legal guides, and in the online services market.

The settlement, if approved by the court, would settle the suit, and require Thomson to:

- Divest more than 50 products valued at between $275 to $300 million, and representing about $72 million in annual sales including: U.S. Code Service; U.S. Reports, Lawyers' Edition; Deering's Annotated California Code; New York Consolidated Laws Service; and Auto-Cite, a citation system currently licensed by Thomson to Lexis-Nexis, a division of Reed-Elsevier, for its on-line service.

- Ensure that each divested product will be sold as a viable, ongoing line of business, by divesting related production assets in addition to rights to publication titles, and allowing the purchaser to hire employees who have been working on the products.

- License openly, for a capped fee, to other law publishers, the right to use the pagination of individual pages in West's National Reporter System in their products.

- Grant to Lexis-Nexis options to extend for five years its current licenses for the three important non-legal databases-- Investext, ASAP, and Predicasts.

- Give options to California, Washington and Wisconsin to reopen the bidding for contracts presently held by Thomson for the publication of their respective official state case law reporters. In the event any of these states choose another official reporter, Thomson is required to divest its assets related to its current contract and to divest its associated state digest.

The Department said that West has long claimed a copyright in the internal pagination of its case reporter system. Today's settlement, with its open licensing requirement does not suggest, however, that the Department believes a license is required for use of such pagination. The Department expressly reserves the right to assert its views concerning the extent, validity, or significance of any intellectual property right claimed by the companies. The Department also said that the parties agree that the settlement shall have no impact whatsoever on any adjudication concerning such matters.

The proposed settlement is the result of an investigation lead by the Department of Justice's Antitrust Division and the Offices of the Attorneys General for New York and California.

This is the seventh joint enforcement action by the Antitrust Division and State Attorneys General in the past two years. Working closely with state enforcers on matters of mutual interest has been a major priority of the Antitrust Division.

As required by the Tunney Act, the proposed consent decree will be published in the Federal Register, together with the Department's competitive impact statement. Any person may submit written comments concerning the proposed consent during the 60-day comment period to Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, Suite 4000, 1401 H Street, N.W., Washington, D.C. 20530.

At the conclusion of the 60-day comment period, the U.S. District Court for the District of Columbia may enter the consent decree upon finding that it serves the public interest.

A complete list of the divestiture products is attached.

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